

Major Tooele Polluter Loses Appeal

By Mike Gorrell
THE SALT LAKE TRIBUNE

The Utah Division of Air Quality was justified in citing **Magnesium Corp. of America (MagCorp)** for emitting excessive amounts of chlorine from its Tooele County plant between 1992 and 1994, the division's policymaking board ruled Monday.

The board rejected MagCorp's appeal of a notice of violation, which charged that one stack at the magnesium-producing plant on the Great Salt Lake's west shore exceeded its emission limit 23 times in a 25-month period.

MagCorp contended its operating permit precluded the division from counting emissions released due to "unavoidable breakdowns" of air-pollution control equipment. It also maintained the division unfairly changed its interpretation of the breakdown provision, which is an enticement for industries to install high-tech but relatively untested devices.

But the Air Quality Board voted 6-1 to support the recommendation of member Richard Kanner, who conducted an official appeal hearing in February.

"Limitations on excess emissions are necessary since the agency has the obligation to protect the public," Kanner determined. "If [MagCorp's contention] was literally interpreted, then the Bhopal, India, disaster, when thousands died or were maimed, would be an 'excusable accident' as it could be construed as an unavoidable breakdown."

MagCorp could be fined \$10,000 per incident, although the maximum levy appears unlikely. More likely is an appeal to the board again or to the courts. Company spokesman Lee Brown did not attend Monday's decision, but vowed during the February hearing to "appeal it as far as we need to go."

Only two facilities in the United States release more toxic materials into the air, land or sea than

MagCorp, according to the Environmental Protection Agency's Toxic Release Inventory for 1993, the last year for which results are available. MagCorp's total was 36.7 million pounds, including 33.5 million pounds of chlorine.

At issue in this case were releases from a "melt/reactor" stack. MagCorp's operating permit allowed the emission of 4,800 tons of chlorine during a "rolling" 12-month period (for example, June 1992 to May 1993; one month later, the period would be July 1992 to June 1993).

But in a two-year period starting in June 1992, the division found that MagCorp's emissions exceeded that cap in all but two "rolling years." In some years, emissions were two to three times the allowed amount.

MagCorp attorney Michael Keller argued that most of those occurred when the company was trying to fix holes that developed unexpectedly in a synthetic liner within its 100-foot-tall stack.

Repairs and a six-week replacement job resulted in the elevated emissions. Because emissions were well under the cap when everything was working, Keller said, the company believed it was complying with the operating permit. But then the state changed its interpretation of the breakdown provision.

"This case is about the integrity and fairness of the regulatory process," he said. "... The decision will adversely affect MagCorp and all other [industrial] operators."

But Assistant Atty. Gen. Denise Chancellor argued that MagCorp was taking a "liberal view of what is considered an unavoidable breakdown." She said MagCorp could perpetually claim an exemption from limits since its continuous production schedule would generate one surprise problem after another.

Salt Lake City Plan Aims to Cut Downtown Traffic

By Jay Baltezare
THE SALT LAKE TRIBUNE

After some 20 public hearings over 18 months, Salt Lake City officials have created a stack of documents — and a way to cut future auto congestion on the city streets, especially downtown.

The City Council is expected to approve tonight a fairly general policy that would gradually wean drivers from their cars.

Only a few of the proposals require a fiat from city hall, while others need action from other government agencies or private companies:

- Reduce the number of parking spaces that retail shops and office developers must set aside for customers and tenants.

- Encourage downtown businesses to adopt common payment

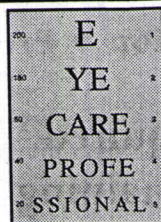
purchase discount bus passes for their employees.

- Support the construction of a light rail line, with spurs to the University of Utah and the Salt Lake City International Airport.

- Synchronize traffic signals.
- Stripe or build what remains of 100 miles of planned bicycle

routes, and distribute more bike racks around the city to encourage cycle use.

City Transportation Director Tim Harpst says it is much easier, and cheaper, for the city and businesses to expand transit alternatives than widen roads or construct more parking lots.



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